

MANDENI MUNICIPALITY



BAD DEBT WRITE-OFF POLICY

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CHAPTER 1 – PRINCIPLES AND INTERPRETATION

1. Purpose

To provide for the write-off of irrecoverable debt and the furtherance of the Mandeni Municipality's debt management strategy.

2. Founding Statement

Whereas Council acknowledges its Constitutional and legislative mandates and recognises its inalienable obligations to the community it serves; and

Whereas Council must conduct itself in a transparent and accountable manner which must be furthered inter alia by providing accurate and true reflections of its financial position as required by Generally Recognised Accounting Practice (GRAP);

The Mandeni Municipality having taken into consideration its duties and obligations in terms of the Constitution of the Republic of South Africa and other legislation governing it has decided to implement the following policy with regard to writing off debt which is irrecoverable.

3. Enable Legislation

This policy is constructed with authority and in terms of the Constitution of the republic of South Africa and the following legislation:

3.1 Local Government: Municipal Systems Ac, 32 of 2000;

3.2 Local government: Municipal Finance Management Act, 56 of 2003;

3.3 Local government : Municipal Property Rates Act, 6 of 2004.

4. Definitions

In this Policy, unless the context otherwise indicates-

“Municipality” means the Mandeni Municipality

“debt” means an obligation of money and /or services owed and due to the Municipality,

“debtor” means a person, natural or juristic, who owes a payment or a debt to the Municipality and who may be compelled to pay in terms of a claim or demand by the Municipality;

“ irrecoverable debt” means debt which in terms of this policy, specifically paragraph 6.2, meets the criteria for writing off and is uneconomical to collect or deemed uncollectable due to reason stated in paragraphs 7 and 12.

“ metered services” means the electricity and water services provided by the Municipality and are metered as a means to perform billing;

“ occupier” in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

“owner” means

- (a) In relation to a property, a person in whose name ownership of the property is registered;
- (b) A trustee, in the case of property in a trust;
- (c) An executor or administrator, in the case of a property in a deceased estate;
- (d) A trustee or liquidator, in the case of property in an insolvent estate or in liquidation;
- (e) A judicial manager , in the case of a property in the estate of a person under judicial management;
- (f) A curator, in the case of a property in the estate of a person under judicial management
- (g) A lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (h) A buyer, in the case of property that was sold by municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

5. Transparency and Accountability

- 5.1 Any debt to be written off will be done in a transparent and accountable manner.
- 5.2 Each case will be considered on its merits by Council.

6. General

Debt will only be written off under the following circumstances and the procedure set out herein has been adhered to:

- 6.1 after the Municipality's debt collection procedure and mechanism has been concluded and all steps have been taken and consideration has been made to further steps being taken as uneconomical; and
- 6.2 said debt is classified as irrecoverable in consequence of all steps to recover the debt having been unsuccessful or is deemed uneconomical to take further steps;
- 6.3 the result thereof have been accepted by Council; and
- 6.4 all the necessary information pertaining to the particular debt which had been placed before Council in respect of the resolution contemplated above shall be kept in the file of the respective debtor for a period not less than 5 years;
- 6.5 all information in respect of debt written off shall be available for inspection by the internal Audit Section as well as any external auditors contracted by the Municipality as part of its annual audit.

7. Information

Without limiting the nature and extent of the information the following must be gathered and placed before Council:

- 7.1 particulars of the debt relating to:
 - 7.1.1 the amount of the debt stating separately the capitals amount and interest accrued;
 - 7.1.2 the composition of the capital amount;
 - 7.1.3 Whether the debt is secured by a mortgage bond or any other security.
- 7.2 the history of the debt which must include:
 - 7.2.1 The debt collection procedures and mechanisms implemented by the collections department to recover the debt;
 - 7.2.2 The result yielded by the said debt collection mechanisms and procedures.
 - 7.2.3 an age analysis of the particular debt.
- 7.3 particular relating to the debtor which must include:

7.3.1 whether the debtor is a natural or juristic person;

7.3.2 Where the debtor is a juristic person;

 7.3.2.1 whether such juristic person has been liquidated;

 7.3.2.2 If liquidated, whether a claim has been made against the estate;

 7.3.2.3 If no claim has been made, the reason therefore;

 7.3.2.4 If a claim has been made, the amount and success thereof.

7.3.3 Where the debtor is a natural person;

 7.3.3.1 Whether the person is indigent in terms of the Municipality's indigent Policy;

 7.3.3.2 Whether the person is insolvent;

 7.3.3.3 If insolvent, whether a claim has been made against the estate;

 7.3.3.4 If no claim has been made, the reason thereof;

 7.3.3.5 If a claim has been made, the amount and success thereof

7.3.4 Whether the debtor can be traced;

7.3.5 The income and assets owned by such debtor.

7.4 Particulars relating to the property to which the debt relates must include:

 7.4.1 the zoning and use of the property;

 7.4.2 whether the property is occupied;

 7.4.3 whether the property is improved or is vacant;

 7.4.4 Whether there are any rights reserved in favour of the Municipality in respect of the property in terms of an existing agreement or title deed;

 7.4.5 How many persons occupied the property during the period the debt accrued?

 7.4.6 the registered owner of the property;

7.5 Any other information relating to the debt that may be requested by Council;

- 7.6 The cost implication for the Municipality in its attempt to collect the debt and submission by the administration whether the continued attempt to collect this debt would exceed the amount of the debt;
- 7.7 Resolutions in respect of debt whether to write-off or not, shall be filed in the record of the particular debtor to which such debt relates.

8. Debt associated with property ownership

Debt accrued through the ownership of property (e.g. property rates, refuse, sanitation) may not be written off except where:-

- 8.1 all attempts to trace the consumer has been unsuccessful;
- 8.2 the debt has prescribed in terms of the Prescription Act, 68 of 1969;
- 8.3 the consumer has been declared insolvent and the Municipality after lodging a claim against said estate has not received payment, or sufficient payment to satisfy the outstanding debt;
- 8.4. the owners estate is disposed of as part of the owner's liquidation, and the proceeds in the realisation of such liquidation are not sufficient to satisfy the outstanding debt; and
- 8.5. there exists no other reasonably foreseeable way to collect the outstanding amount.

9. Debt association with metered services

Debt, or a part thereof, in respect of metered services is deemed irrecoverable, and therefore may be written off, where:-

- 9.1 all attempts to trace the consumer has been unsuccessful;
- 9.2 the debt has prescribed in terms of the Prescription Act, 68 of 1969; and
- 9.3 the consumer has been declared insolvent and the Municipality after lodging a claim against said estate has not received payment, or sufficient payment to satisfy the outstanding debt.

10. Miscellaneous debt

Debt owed to the Municipality arising from miscellaneous billing as a result of auxiliary services rendered is deemed irrecoverable, and therefore may be written off, where:-

10.1 all attempts to trace the consumer has been unsuccessful;

10.2 the debt has prescribed in terms of the Prescription Act, 68 of 1969;

11. Debt association with housing

Where debt in respect of metered services has accumulated by the unauthorised occupier of a dwelling in the name of a person allocated a dwelling, and for some reason the dwelling was not occupied by said person, the debt should be written off upon vacating of said dwelling and the legitimate occupation by a person allocated the dwelling.

12. Irrecoverable debt

Notwithstanding the provisions in this chapter, debt is classified as irrecoverable if:

12.1 all attempts to trace the consumer has been unsuccessful;

12.2 where the owner's estate is disposed of as part of the owner's liquidation, and the proceeds in the realisation of such liquidation are not sufficient to satisfy the claim lodge against the estate by the Municipality, the existent residual debt;

12.3 the debt has prescribed in terms of the Proscription Act, 68 of 1969;

12.4 the consumer has been declared insolvent and the Municipality after lodging a claim against said estate has not received payment, or sufficient payment to satisfy the outstanding debt, such residual debt;

13. Writing off of debt

13.1 Debt shall be written off regularly but at least once every twelve months.

13.2 Debt shall be regarded as written off only upon approval by Council and such approval has been recorded in the prescribed way.

13.3 Any debt which is written off must be made in accordance with generally recognised accounting practice.

13.4 Debt which is irrecoverable must be identified and each specific debt must be considered on its merits after having taken into account the results yielded by debt collection mechanism and procedure.

13.5 Furthermore, the Municipality must take into consideration the cost implication of attempting to collect the debt which is irrecoverable.

13.6 Prior to the writing off of any debt, the Municipality must:

- 13.6.1 Have exhausted all measures as provided for in its Credit Control and Debt Collection Policy;
- 13.6.2 Certify that the debt which is proposed to be written off has been pursued diligently and completely; and
- 13.6.3 Certify that no other foreseeable possibility exists in the recovery of such debt

14. Factors to be taken into account

When considering a particular debt for the purpose of writing the same off; council must take cognisance of the following:

14.1 The prescriptions of the Local Government: Municipal Systems Act and in particular the following sections:

14.1.1. Section 96 which prescribes as follows:

“A municipality must – collect all money that is due to it subject to this Act and any other applicable legislation”,

14.1.2 Section 97 (1) which provides that:

“A credit control and debt collection policy may differentiate between the different categories of rate payers, users of services, debtors, taxes, services standards and other matters”.

14.1.3 The Local Government: Municipal Property Rates Act, 6 of 2004.

14.1.4 The relevant sections of the Prescriptions Act.

14.1.5 The regulations and guidelines made under Sections 64 of the Municipal Finance Management Act and Section 104 of the Municipal Systems Act.

15. Indigent Households

This policy in no way supersedes nor amends the writing off of debt in respect of indigent households as contemplated in the Indigents Policy of the Municipality but complements it.

16. Subsequent recovery of bad debt

- 16.1. The writing off of debt does in no way prescribe the Municipality's right to pursue such debt.
- 16.2 The writing off of debt does in no way terminate the Municipality's actions in the recovery thereof.
- 16.3 All amounts recovered in respect of debt already written off will be recorded in the Municipality's financial statements.

17. Provision for bad debt

Provision for bad debt or irrecoverable debt must be made in terms of generally recognised accounting practice.